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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : GIEFER
Serial No : 09/600,832
Confirm. No : 2069
Filed : July 21, 2000
For : SLOT COVER...
Art Unit : 3682
Examiner : V. Luong
Dated : November 1, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF DECISION ON PETITION

In response to the Decision dated September 26, 2005, Applicant respectfully requests reconsideration of that Decision.

Applicant would first like to thank the Director for indicating that the recitation of "a selector lever 8 connected to kinetics 17...", and reference numeral 12 is not new matter. Applicant also thanks the Director for stating that the requirement that figure 4 be amended to add reference numeral 20 is improper.

The Decision indicates that the proposed figure 3 with the Hall sensors 14 and the permanent magnets 13 are considered to contain new matter. Applicant notes that figure 3 does not have the elements 14 and 13. Applicant assumes the Director is referring to figure 4.

The decision states that the originally filed specification does not describe nor illustrate the exact locations of the Hall sensors 14 and the permanent magnets 13 relative to the other

components of the invention. Applicant does note that the original specification describes on page 3:

"means for detecting the shift position of the selector lever may be additionally integrated in a slot cover ... For example, signal transmitters, whose signals are detected by signal receivers arranged at spaced locations may be arranged at the deflecting elements. The principal, which functions similarly to the tachometer, may be embodied, e.g., by means of Hall sensors and permanent magnets".

The specification therefore indicates that at least part of the means for detecting the shift position are located in the slot cover. The slot cover is described on page 4 of the original specification, as having support structure 5 with two supports 5.1 and 5.2 and a central plate 5.3. Proposed figure 4 shows the Hall sensors 14 located on, or integrated with, the central plate 5.3 and support 5.2. While central plate 5.3 is not labeled in figure 4, it is labeled in figure 2. Therefore the position of the Hall sensors 14 in proposed figure 4 is described in the original specification.

A person of ordinary skill would understand that in a Hall sensor and permanent magnet combination, the permanent magnet could be considered a signal transmitter. The paragraph on page 3 of the original specification indicates that the signal transmitters may be arranged at the deflecting elements. The deflecting elements are described on page 4 of the original specification, as include deflecting rollers 3.1 and 3.2. Proposed figure 4 shows the permanent

magnets 13 on the rollers 3.1 and 3.2. Therefore the position of the permanent magnets in proposed figure 4 is described in the original specification.

The number of Hall sensors 14 and the permanent magnets 13 depends on the number of shift positions to be detected, and the accuracy that the manufacturer desires. A person of ordinary skill would easily be able to adjust the number of magnets and Hall sensors for the particular application being considered. Therefore the number of Hall sensors and permanent magnets is arbitrary, and the inclusion of more or less sensors and magnets in the drawings would not provide any additional information to the person of ordinary skill. The number of Hall sensors and permanent magnets therefore should not be new matter, and proposed figure 4 is only an example for a person of ordinary skill.

Applicant thanks the Director for indicating that a black box diagram may be utilized to illustrate the claimed magnets and Hall effect sensors. Applicant is unsure whether the Director is referring to a separate figure or the inclusion of boxes in figure 4. With this request applicant is enclosing a proposed figure 4 with boxes for the Hall sensor and magnet. If the enclosed proposed figure 4 is acceptable, applicant is willing to amend the application accordingly.

The Decision indicates that the proposed addition of the bracket to figure 7 is more detailed than the originally filed disclosure. The specification states that a bracket can be used to fasten the support structure on a slot cover for a lateral movement of the slot cover. It is applicant's position that brackets which allow for lateral movement are well known in the art, and the proposed modification to figure 7 is merely a generic showing of such a bracket. The

specific detail of the bracket of the location of the bracket is arbitrary and would depend upon the specific application. Creation of a bracket for a specific application is well within the skill of a person of ordinary skill in the art, and therefore it is applicant's position that the generic showing in proposed figure 7 is not new matter. If the Director desires, a box diagram can be provided, or the element can be removed from the drawing.

The Decision also states that the period for response to the office action mailed June 7, 2005, continues to run. Applicant notes that the June 7, 2005 communication is not officially indicated as an office action. The period for reply is indicated in this communication to expire on the date set forth in the Ex parte Quayle action. The Ex parte Quayle action is dated March 22, 2005. The period for response, including all possible extensions, has expired before the date of the Decision.

Applicant understands that a petition to the Director does not automatically stay the period for response. However applicant respectfully request relief from the original period of response in view of the fact that the Examiner's refusal to enter the amendment was flawed. Because of the flaws in the refusal to enter, applicant was unable to modify the application to place it in condition for allowance. Also, because of the flaws, it was necessary to petition the Director. Based on the present Decision, applicant would submit a different amendment that applicant believes would place the application in condition for allowance. The processing of this petition caused applicant's time period to expire, and unfairly burdens the applicant.

Applicant respectfully requests that if the Director decides that applicant's amendment still contains new matter, a new time period be given so that applicant can amend the

application in accordance with the Director's decision.

Applicant has tried to amend the application to address the formal objections in the Ex parte Quayle action. However the Examiner felt that many of applicant's attempt to address these formal objections were new matter. Applicant contacted the Examiner by telephone to try to determine what changes would be acceptable to the Examiner. The Examiner could not, or would not, give an indication of what type of changes would be acceptable. It is applicant's position that an Ex parte Quayle action, with its limited period for response, is improper if the Examiner does not feel that the application can be amended to overcome the formal objections. Applicant has therefore been further burdened by the limited time period of an Ex parte Quayle action, without any indication of a solution. This necessitated the petition, which cause the expiration of the period for response.

Applicant respectfully requests that the Director reconsider the petition and have applicant's last amendment be entered in order to place this application in condition for allowance. In the alternative, applicant respectfully requests that a new period for response be given so that applicant can amend the application in accordance with the Director's decision.

If there are any additional facts that are pertinent to this matter, the Director is invited to contact Applicant's representative by telephone to further discuss this matter.

Respectfully submitted
for Applicant,

By: 

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Attached: Proposed Fig. 4 with Box Diagrams

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-0410.

CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY THAT THIS PAPER FOR SERIAL NO. 09/600,832 (7 PAGES IN ALL) IS BEING FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE FACSIMILE NUMBER 571-273-8300 ON THE DATE SHOWN BELOW.

Toni Ann Forte

NAME OF PERSON SIGNING CERTIFICATION

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